REMARKS

The Office Action mailed July 24, 2007 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment of the Claims

Claims 1-31 are currently pending.

No claims stand allowed.

New claims 30 and 31 also particularly point out and distinctly claim subject matter regarded as the invention. Claim 30 is an *In re Beauregard* claim corresponding to method claim 1. Claim 31 is a means-plus-function apparatus claim corresponding to method claim 1. Support for these claims may be found in the specification, figures, and claims as originally filed.

The 35 U.S.C. § 102 Rejection

Claims 1-29 stand rejected under 35 U.S.C. § 102(3) as allegedly being anticipated by Roese et al.,[1] among which Claims 1, 11, and 20 are independent claims.[2] This rejection is respectfully traversed.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.[3]

Claim 1

[1] U.S. Publication No. 2003/0217151 to Roese et al.
[2] Office Action mailed July 24, 2007, at pp. 2-8.

Claim 1 recites:

> A method for providing multiple access modes in a data communications network, comprising:
> (a) sensing a user device coupled to a port of a network access device;
> (b) determining if said user device supports a user authentication protocol; and
> (c) placing said port into a semi-authorized access state if it is determined that said user device does not support said user authentication protocol;
> wherein said semi-authorized access state limits access by said user device to a pre-configured network accessible via the data communications network.

The Examiner states:

> ... [Roese] clearly disclose and show a method for providing multiple access modes (paragraph 50 (multiple access points)) in a data communications network (paragraph 8 (data network)), comprising: (a) sensing a user device (fig. 2 (step 210), paragraph 69, lines 7-10) coupled to a port of a network access device; (b) determining if said user device supports a user authentication protocol (paragraph 100 (802.1 x to authenticate user for network access control)); and (c) placing said port into a semi-authorized access state (fig. 5 (steps 520, 525 (steps 520, 525, and 530 (not authenticated - access at selectable level option)); paragraph 112, lines 17-25) if it is determined that said user device does not support said user authentication protocol (fig. 5 (steps 520, 525)) ; wherein said semi-authorized access state limits access (fig. 5 (step 530 - access at selectable service levels)) by said user device to a pre-configured network accessible (fig. 5 (step 530 - access at selectable level option)) via the data communications network.[4]

Applicant respectfully disagrees for the reasons set forth below.

Roese et al. Does Not Disclose Determining If Said User Device Supports A User Authentication Protocol

Contrary to the Examiner's statement, Roese et al. does not disclose determining whether said user device supports said user authentication protocol as required by Claim 1. Roese et al. speaks at length about various protocols that may be used, but Roese et al. assumes whatever protocol is used, the user device supports the protocol. For example, Roese et al. states:

[3] Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).
[4] Office Action dated July 24, 2007, p. 3.

> In general overview of the authentication process, a user device 104 connects to the network infrastructure 101, via a connection point 160. System 100 authenticates the device.[5]

In Roese et al., step 1 is connecting to the network. Step 2 is authenticating the device. Roese et al. addresses only what happens based on the *result* of the authentication; it does not address what happens if the authentication protocol cannot proceed because the user device does not support the protocol.

The scenario of Roese et al. was addressed in paragraph 3 of the Background section of the instant patent application, indicating that in previous solutions, when a user device does not support the user authentication protocol, conventional layer 2 switches drop the offending device and deny access to the network. This binary step employed by conventional switches is also taught by Roese et al. Whereas Claim 1 requires determining if said user device supports a user authentication protocol as a precondition to determining whether to place a port into a semi-authorized access state.

For the above reasons, the 35 U.S.C. § 102 Rejection of Claim 1 is unsupported by the cited art of record. Thus, a *prima facie* case has not been established and the rejection must be withdrawn.

Claims 11 and 20

Claim 11 is a non-means-plus-function apparatus claim corresponding to method claim 1. Claim 20 is a non-means-plus-function system claim corresponding to method claim 1. Claim 1 being allowable, Claims 11 and 20 must also be allowable for at least the same reasons as Claim 1.

[5] Roese et al. at ¶ 102.

Dependent Claims 2-10, 12-19, and 21-29

Claims 2-10 depend from Claim 1. Claims 12-19 depend from Claim 11. Claims 21-29 depend from Claim 20. Claims 1, 11, and 20 being allowable, Claims 2-10. 12-19, and 21-29 must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

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